

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VIRTAMOVE, CORP.,

Plaintiff,

v.

HEWLETT PACKARD ENTERPRISE
COMPANY,

Defendant.

§ Case No. 2:24-cv-00093-JRG
§ (Lead Case)

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§ **JURY TRIAL DEMANDED**

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VIRTAMOVE, CORP.,

Plaintiff,

v.

INTERNATIONAL BUSINESS
MACHINES CORP.,

Defendant.

§ Case No. 2:24-cv-00064-JRG
§ (Member Case)

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§ **JURY TRIAL DEMANDED**

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**DECLARATION OF ANDREW MORRILL IN SUPPORT OF
INTERNATIONAL BUSINESS MACHINES CORP.'S MOTION
TO EXCLUDE CERTAIN OPINIONS OF JIM BERGMAN**

I, Andrew Morrill, hereby declare:

1. I am a partner at the law firm of Kirkland & Ellis LLP, counsel for Defendant and Counter-Plaintiff International Business Machines Corp. (“IBM”) in the above-styled matter. I am a member of the Bar of the State of California, and am admitted to practice pro hac vice before this Court. I provide this declaration in support of IBM’s Motion to Exclude Certain Opinions of Jim Bergman. I have personal knowledge of the information set forth herein, and I could and would competently testify thereto if called as a witness.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from Jim Bergman’s Opening Damages Report, dated June 23, 2025.

3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from Jim Bergman’s Rebuttal Damages Report, dated July 14, 2025.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the First Amended Complaint filed in *AppZero Software Corp. v. AppFirst, Inc.*, Civil Action No. 1:11-09009-SAS, which begins at Bates Stamp VM_IBM_0044632.

5. Attached hereto as **Exhibit 4** is a true and correct copy of a document titled “AppFirst Settlement Agreement” which begins at Bates Stamp VM_IBM_0017098.

6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from Dean Huffman’s May 21, 2025 Deposition Transcript.

7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from Dean Huffman’s May 23, 2025 Deposition Transcript.

8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from Rochette May 5, 2025 Deposition Transcript.

9. Attached hereto as **Exhibit 8** is a true and correct copy of excerpts from Donn Rochette's September 10, 2024 Deposition Transcript from *VirtaMove Corp. v. Amazon.com, Inc., et al.*, produced by VirtaMove in this case as VM_IBM_0000890.

10. My firm has applied highlighting to **Exhibits 1-8** consistent with the guidance in Local Rule CV-7(b).

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28 day of July, 2025 in Costa Mesa, California.

/s/ Andrew Morrill

Andrew Morrill

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served on July 28, 2025, with a copy of this document via electronic mail.

/s/ Todd M. Friedman
Todd M. Friedman